



*A report by:*  
THE JOINT LEGISLATIVE STAFF  
TASK FORCE ON GOVERNMENT OVERSIGHT

*Prepared for:*  
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*The California Gold Discovery to Statehood  
Sesquicentennial Commission:*

# BOOM OR BUST?



*A preliminary  
report of  
findings and  
recommendations*  
JANUARY 30, 1998

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## **PRELIMINARY REPORT AND RECOMMENDATIONS**

In December, after receiving information from concerned public officials and private citizens, the Joint Legislative Staff Task Force on Government Oversight began an inquiry into the activities of the California Gold Discovery to Statehood Sesquicentennial Commission (Commission) and its affiliated non-profit arm, the California Sesquicentennial Foundation (Foundation).

Both were created on Jan. 24, 1994, by Gov. Pete Wilson in Executive Order W-74-94, which called for the immediate creation of a commission and foundation “to mold and direct the sesquicentennial into a beneficial and financially successful event of global stature.”

Four years and approximately \$2.3 million later, however, the Commission and Foundation appear to be far from accomplishing their assigned tasks. Significant questions have arisen over the direction, management and past practices of both organizations.

The proposed 1998-99 Governor’s Budget includes an ongoing appropriation of \$972,000 to finance the Commission’s operations for the next 3 years. Based on a preliminary review of Commission and Foundation documents, and interviews with individuals both inside and outside of these entities, the Task Force recommends that funding for the Commission be withheld pending a hearing by the budget subcommittee. Both the Foundation and Commission should provide a complete accounting of all expenditures of state and sponsorship funds to date. Additionally, the Legislature should consider a substantial reduction in the Commission budget and staff or, depending upon the outcome of a hearing, its elimination entirely.

Specific areas of concern are summarized as follows:

1. Questionable expenditures of funds and inadequate oversight of contractors.
2. Apparent violations of state and federal reporting laws.
3. A lack of focus and direction, resulting in miscommunication and misunderstandings with local government officials and citizens’ groups. This problem has given rise to the hiring and firing of expensive consultants and hindered the project’s ability to raise funds from the corporate community.

### **Historical Background**

Though the Governor’s 1994 Executive Order required Sesquicentennial planning to begin immediately, no action was taken on this matter for a full year. In January 1995, the Foundation filed its incorporation papers as a not-for-profit corporation and the board of the Foundation and Commission held an organizational meeting. However, Governor Wilson did not appoint an executive director for the Commission until November of that

year. To fund the Commission and the Foundation's initial work, the Governor asked the Legislature to provide the California State Library – under whose authority the Commission operates – with “a one time increase of \$1,392,000 for FY 1996-97.”

In its 1997-98 Budget Change Proposal, the Commission requested a second year appropriation of \$972,000. The BCP stated that the need for additional funds was due primarily to a “delay in the appointment of Commission members, naming of Foundation Board of Director members, amending Foundation bylaws and a legal review of state mandated provisions in Foundation contracts.”

From the outset, it was envisioned that the Commission – funded with state tax dollars – would exist to assist the Foundation in its quest to raise money from the private sector and to serve as the official arm of the State of California in the Sesquicentennial celebrations. After the Foundation become financially independent, it was anticipated that there would be no further assistance needed by taxpayers. The Foundation, relying on its private sector benefactors, would prepare and organize a three-year-long celebration of California's 150<sup>th</sup> year as a State.

While they are technically separate entities, the Foundation and the Commission in recent years have basically functioned as one organization. They share several of the same board members and the key staff of the Commission, Executive Director Robert Elsner and Deputy Director Oscar Wright, serve as the Chief Executive Officer and Chief Administrative Officer, respectively, of the Foundation.

One of the Commission's first official actions was to grant the Foundation \$350,000 to hire consultants to create marketing plans, fundraising strategies and event planning. The Foundation contract set forth a minimum fundraising goal of \$4.8 million in the first two years. To date, the Task Force has been unable to verify the amount of funds raised by the Foundation, although Foundation officials estimate it is less than 10% of the original goal.

### **Fundraising Issues**

Under the terms of the Commission's \$350,000 contract with the Foundation, approved Sept. 30, 1996, the Foundation should have raised a minimum of \$2.2 million by June 30, 1997. An additional \$2.6 million was to have been raised by June 30, 1998. These were defined as “minimum goals.”

Because the Foundation has not, in four years, filed a single federal or state income tax return, it is difficult to know precisely what has been raised. The biggest single contribution to date, \$115,000 from the Catellus Development Corp. was not actually raised by the Foundation's paid fundraisers, but obtained through the personal efforts of Dr. Kevin Starr, the State Librarian. Catellus earmarked their donation for use in promoting the centerpiece attraction of the Sesquicentennial celebrations, the 1999 tour of Tall Ships from San Francisco to San Diego. According to Foundation minutes, most of this money has already been spent financing trips to Scotland and Rhode Island to interview tall ship captains, among other things.

Among the smaller contributors were Fieldstead & Co., owned by conservative political financier Howard Ahmanson, who later became a Foundation board member; ARCO; and some of the Foundation directors. It is not clear how the remainder of funds donated to the foundation have been spent.

Finally, the failure of the Foundation to file state and federal tax returns is troublesome. Aside from being a violation of the law, it violates well-known Standards of Philanthropy and may raise concerns in the minds of potential contributors about administrative policies and practices.

### **The Consulting Contracts**

The Task Force has requested copies of all contracts entered into by both the Commission and Foundation. Not all contracts have been received, but a review of the contracts provided to date shows a pattern of, at the least, questionable decision-making and, possibly, conflict-of-interest.

The Foundation does not follow a competitive bid process for contracts. It is possible that this, in itself, has promoted a series of unwise contracting decisions. Following are descriptions of a few of the Foundation's contracts with fundraising consultants; these represent the overall administrative policies thus far.

On July 1, 1996, the Foundation signed a one-year, \$84,000 consulting contract with Los Angeles attorney John Welborne to serve as its chief operating officer. Mr. Welborne had previous experience in raising funds for charities and managing volunteer and charitable events. According to Foundation minutes, Mr. Welborne began working for the Foundation in March 1996, four months before he had a contract.

Mr. Welborne's contract with the Foundation specified payment of \$7,000 a month in fees, rental of an office in downtown Los Angeles, parking for Mr. Welborne and his staff, reimbursement for cellular phone bills of up to \$300 a month, business entertainment expenses of up to \$720 a month, and up to \$700 a month to attend "civic and charitable events."

The consulting agreement was for Mr. Welborne to oversee "a volunteer-backed and event-driven program that unites community leaders and businesses throughout the state in celebrating and financially supporting the Sesquicentennial." His immediate goal was to "establish three statewide teams of volunteers to work under the banner of the...Foundation: Leadership, Finance and Program. These teams of volunteers will assist us in funding next year's Sesquicentennial expenses through the Foundation (rather than the Commission) to the extent possible."

Mr. Welborne was paid \$56,908 and resigned on February 10, 1997.

In an interview with Task Force staff, Mr. Welborne complained that the Foundation received little to no assistance from the Governor's office, which he felt was critical in getting corporate California to give money to a state-sponsored event. He stated, "If

someone from the Governor's office had taken more of an interest in this, maybe things would have turned out differently."

On September 1, 1996, the Foundation gave a \$200,000 consulting contract to Perelman Pioneer & Co. (PP&C), a Los Angeles-based event promoter. PP&C is owned by Richard Perelman, a director of the L.A. Sports Council who has produced marathons and arts festivals for the City of Los Angeles and served as vice-president for press operations for the Los Angeles Olympic Organizing Committee from 1981-84.

A subcontractor to PP&C on the Foundation contract was Oracle One Partners Inc., another L.A. company owned by Perelman and Joel K. Rubenstein, the former director of corporate sponsorships for Major League Baseball. Rubenstein is also a former business partner of Olympic Committee chairman Peter Ueberroth and was instrumental in arranging corporate contributions for the Los Angeles Olympics.

For \$10,000 a month, PP&C and Oracle One were to create a program of events, create a marketing and merchandising program, a corporate awareness program and recruit corporate sponsors to fund the activities.

They were paid \$106,656 before they were fired by the Foundation in May 1997.

Richard Perelman told Task Force staff that seven months – which is how long its contract existed – is very little time when it comes to securing corporate sponsorships, particularly for an event as ephemeral and confusing as a Sesquicentennial celebration.

"When Joel was looking for corporate sponsors for the Olympics – which, it is safe to say, is a known quantity – it took him 13 months to get the first corporation on board," Perelman stated. "And this was for the Olympics. So it didn't concern us that we hadn't gotten any commitments yet. But we were never given a fair chance to perform."

On February 21, 1997 a third consulting contract was awarded to Andrew Harris and Associates, a Marina Del Rey firm that specializes in producing food and wine festivals. Part of PP&C's event program included a two-day extravaganza at the Culinary Institute of America's site in St. Helena, an event called the "California Garden of Eatin,'" which would have featured celebrity chefs and vintners, and showcased the state's culinary industries.

Harris' contract provided for \$3,500 a month in fees, plus expenses, and was to run at least initially from January until June 1997, and would then be extended for another year.

He was paid \$20,351 before being fired by the Foundation on May 16, 1997.

In an interview with staff, Mr. Harris said his firing, which he attributed to miscommunication between the Foundation staff and its board, was particularly puzzling.

"The whole reason Bob Elsner hired me was to put on this food festival. This is what I do. This is how I earn my living. After working very hard for four months and getting celebrity chefs to give us agreements and securing a very favorable location, I went to a meeting and had board members asking what we're doing here and why we're even

involved in something like this,” Harris said. “If the board was not enthusiastic about it initially, I really don’t know why they engaged me.”

Finally, in May 1997, a San Francisco-based fundraising organization, Community Counselling Services Inc., was hired for \$5,000 a week “to determine fundraising possibilities.” After reviewing its initial report and paying out \$20,000 in consulting fees, the Foundation fired CCSI in July 1997.

William Merrick, vice-president of Community Counselling Services Co., said his fund-raising firm was hired to evaluate the feasibility of raising money through grants and donations – as opposed to corporate sponsorships or merchandising tie-ins – from the non-profit community, philanthropic organizations and the general public.

“We concluded that it was not very feasible,” Merrick said. “Our recommendation was that they should keep their efforts focused on corporate sponsorships.” Merrick said he saw no hope of mounting a successful fund-raising campaign for the Sesquicentennial, adding “not many of our studies produce that kind of a recommendation.”

“It’s not like raising money for a college or a church. I mean, the first question we got from people was: ‘What’s a sesquicentennial?’ They knew what a Bicentennial was but the concept behind this wasn’t really obvious.”

The Task Force recently asked the Foundation to provide documents relating to all of the above contracts but, to date, it has not replied. Therefore, it is difficult at this point to provide a definitive answer as to who bears the ultimate responsibility for spending more than \$200,000 in taxpayer funds on non-productive consulting contracts.

In interviews with Task Force staff, Foundation officer Oscar Wright complained that the consultants were fired due to poor performance, specifically, their inability to land corporate sponsorships. In Foundation minutes, directors refer to the contracts as “mistakes” and “unfortunate experiences” and complain about the quality of the work product and the expenses involved.

The consultants, however, insist that they were performing in accordance with their contracts and had received excellent evaluations from executive director Elsner, who negotiated and signed most of the consulting contracts. They complain that the Foundation and Commission boards had little idea of how expensive and time-consuming it is to plan and produce events of “a global stature,” as the Governor wanted. They were told their contracts were cancelled because the Foundation was running out of money, not because they had performed poorly.

By mid-1997, the disorganization was obvious enough to begin prompting internal alarm. Gina Stassi, the Commission’s public relations specialist, wrote to Elsner and Wright urging them to “act now to create processes and policies that reduce the vulnerability to scrutiny in the area of contract procurement and oversight.”

Stassi was particularly concerned about the fact that the Foundation was not putting contracts out to bid, which left it “vulnerable to criticism for lack of oversight in this regard.”

One contract she cited as a problem was a licensing agreement with a San Diego firm called Fotoball Inc., which agreed to provide souvenirs and memorabilia featuring the Sesquicentennial's logo and give the Foundation 10% of the sales proceeds. Though Stassi did not spell out her concerns with this contract, a Task Force review of public documents shows that one of the directors and major stockholders of Fotoball, a publicly traded company, is Joel Rubenstein, one of the Los Angeles consultants that the Foundation had hired to come up with fundraising ideas.

Contracts entered into by the Commission should also be reviewed.

In November 1996, deputy director Oscar Wright signed a two-day, \$2,500 consulting contract with Jim Sears of Irving, Texas, an event consultant who reportedly participated in the Texas Sesquicentennial celebration. The contract required him to "review and assess" the Commission's proposed Business Plan.

This seems to be an extraordinary amount of money to pay someone for reading a document -- the equivalent of \$456,000 a year. Furthermore, it is our understanding that this Business Plan that Sears was asked to review has never gotten past the draft stage. We have asked the Commission for a copy of Mr. Sears' work product, which we have not received to date.

One question that will remain unanswered until the Task Force receives the financial records it has requested is this: the Commission granted the Foundation \$350,000 to spend on consulting contracts, yet only \$203,826 was used for that purpose. We are unable to explain at the moment what was done with the remaining \$146,174. It is possible that the money was unspent, or was diverted to some other use.

### **Management Issues**

Possibly the most frequent complaint heard by Task Force staff concerns the apparent disorganization and lack of direction of the Commission and Foundation. It is clear from a review of meeting minutes and interviews with current and former staff that fundamental management decisions that should have been made years ago are only now in the process of being decided.

Commissioner Steve Lund, a Gold Country accountant who joined the Commission board in 1996, admitted that the Commission still has not developed a comprehensive program and, consequently, has never developed an overall budget. Commissioner Lund, who has been outspoken in his complaints over the direction of the Commission, attributes the Foundation's sorry fundraising record to these management failures.

"In discussions with Wells Fargo, it was made clear that one thing they were interested in was reaching Chicanos in Southern California. They wanted to know what we had terms of program for that," Lund recalled. "We didn't have anything. We have no strategic planning. When I got on the Commission, the only thing we had was some vague vision and mission statement. It was some kind of a crazy blob."

Lund said that, to this date, the Commission has not developed programs keyed to the diverse ethnic groups in California, with the exception of Asian Americans.

These management problems have also led to a series of disputes and ill feelings between local officials in Gold Country counties and the Commission, some of which have been aired in the press. Gold Country officials claim that they were asked to produce a series of community events to kick off the Sesquicentennial campaign and given assurances that the Commission would provide both financial and technical assistance. This assistance, they say, was not forthcoming. Commission officials say they made no such promises.

Commission Executive Director Robert Elsner's response to these local concerns has been curious at best, according to a review of Elsner's correspondence.

It is obvious from the letters Elsner sent to Matt Sugarman, the superintendent of the Marshall Gold Discovery State Historic Park in Coloma, that the park had been promised Foundation money to pay for Sesquicentennial activities. But when Sugarman raised the question with Elsner in August 1997, Elsner told him the Foundation didn't have the cash. He also advised Sugarman not to raise the subject at a Commission meeting in August 1997 and keep his mouth shut in public.

"...bitching in the press is not going to help any of us," Elsner wrote.

After Elsner learned that reporters were looking into the issue, he warned Sugarman that negative publicity could "do irreparable harm to our fundraising abilities...(and) would also sabotage some financial help we might provide for Coloma." When a critical story later appeared in the *San Francisco Recorder*, Elsner wrote Sugarman expressing "hope we can handle damage control adequately."

Neither the Commission nor the Foundation ever provided the park with financial help to put on the Sesquicentennial kickoff celebrations earlier this month; the money to pay for the Commission's kickoff celebration came mostly from the Park. At the ceremony, however, Gov. Wilson promised to earmark \$300,000 in general fund money to pay for park projects.

Lastly, in July 1997, the Fair Political Practices Commission sent an advice letter to the State Library which stated that members of the Commission are required to file conflict of interest and financial disclosure statements. Elsner, however, advised the Commission that the matter was "under review." To this date, no such statements have been filed with the FPPC.

## **RECOMMENDATIONS**

In light of the foregoing, the Task Force recommends the following:

1. Withhold Commission funding for FY 1998-99 pending a Legislative budget oversight hearing. The Commission and Foundation should be asked to provide complete financial records, expense reports and all documents relating to current and previous contracts.

2. The appropriate policy committee should conduct a performance review of both the Commission and Foundation. Both entities should be asked to submit a business plan with defined goals and deliverables.
3. Consider disbanding the Commission and distributing funds directly to local communities and organizations for use in developing Sesquicentennial legacy projects and educational programs.